

IN RE: PETITION FOR ZONING VARIANCE
S/S Blakely Avenue, 300' E of
the c/l of Belair Road
(4211 Blakely Avenue)
11th Election District
5th Councilmanic District
Harbor Realty Partnership
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 92-428-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Zoning Variance filed by the Legal Owner of the subject property, Harbor Realty Partnership, by and through its attorney, Julius W. Lichter, Esquire, and Kathryn T. May, Esquire, in which the Petitioner requests relief from Section 203.3.c.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit three (3) wallmounted, rear illuminated (back-lit) signs comprising 115.3 sq.ft. total in lieu of the one (1) permitted, non-illuminated sign of 8 sq.ft., all as more particularly described on Petitioner's Exhibit 3.

Appearing on behalf of the Petitioner was Arthur H. Adler, Partner, and Thomas J. Hoff, Registered Landscape Architect. Appearing as Protestants in the matter were Angela Leitzer, Thomas and Mary Ellen Vecchioni, and Sophie Raab, nearby residents of the area.

Testimony indicated that the subject property, known as 4211 Blakely Avenue, consists of 1.37 acres, more or less, zoned R.O. and is improved with a two-story office building containing general office space and the Putty Hill Health Center. The Petitioner filed the instant Petition for additional signage in order to advertise the location of its main tenant, the Putty Hill Health Center. Testimony indicated that there currently exists on the face of the building an 8 sq.ft. sign which identi-

fies the street address of the building as being "4211". The Petitioner is desirous of adding to the front facade of the building a sign of 35.30 sq.ft. containing the words Putty Hill Health Center, as depicted on Petitioner's Exhibit 3, a site plan of the property and a schematic of the signs being requested. In addition, the Petitioner seeks to install a sign of 72 sq.ft. on the northwest side of the existing structure with the words "Putty Hill Health Center". Testimony revealed that all three signs would be back-lit.

In response to comments forwarded by the Office of Planning and Zoning, the Petitioner voluntarily agreed to dismiss their request for the 72 sq.ft. sign to be located on the northwest side of the building. Therefore, that particular variance request shall be denied.

Appearing and testifying in opposition to the Petitioner's request was Angela Leitzer. Ms. Leitzer testified that she resides in a development of newly constructed homes located approximately 1/4 mile away from the subject site. Ms. Leitzer testified that at the time of her purchase, the land where the subject building exists was undeveloped and contained trees. It was not until after she settled and moved into her home that the building was constructed. She is opposed to any further commercialization of this area and feels that the requested signs will contribute to that commercialization. She also expressed her opposition to the building itself.

Also appearing and testifying in opposition to the Petitioner's request was Tom Vecchioni. Mr. Vecchioni testified that he lives directly behind the subject building on Raab Avenue. Mr. Vecchioni testified that he is opposed to the office building and the installation of any further signs on the building. Mr. Vecchioni further testified that there are

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three huge floodlights on the rear of the building which cause light to be reflected into his dwelling.

Sophie Raab appeared and testified in opposition to the Petitioner's request. Ms. Raab also expressed her opposition to the requested variance and the fact that, in her opinion, the signs do not need to be lit because anyone going to the health center would do so during daylight hours. She therefore questioned the need for the signs to be illuminated.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, as hereinafter modified, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the modified variance is not granted. It has been established that

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special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested shall be granted in part and denied in part.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 30th day of June, 1992 that a variance from Section 203.3.c.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit two (2) wallmounted, rear illuminated (back-lit) signs comprising 43.30 sq.ft. total mounted on the front facade of the existing building in lieu of the one (1) permitted, non-illuminated sign of 8 sq.ft., be approved, and as such, the Petition for Zoning Variance is hereby GRANTED, in part, subject to the following restrictions:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) All illuminated signage on the subject property shall be extinguished by 8:00 PM on any given evening.
- 3) The three floodlights located on the rear of the existing building shall be adjusted so as to reflect downward and away from any adjoining residential prop-

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erties. If necessary, the Petitioner shall install visors on the subject lights to prevent any spillage of light onto nearby residences.

4) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED that the Petition for Zoning Variance requesting relief from Section 203.3.c.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit the proposed 72 sq.ft. sign mounted on the side of the existing building, in accordance with Petitioner's Exhibit 3, be and is hereby DENIED.

TMK:bjs

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

June 30, 1992

Julius W. Lichter, Esquire
305 W. Chesapeake Avenue, Suite 113
Towson, Maryland 21204

RE: PETITION FOR ZONING VARIANCE
S/S Blakely Avenue, 300' E of the c/l of Belair Road
(4211 Blakely Avenue)
11th Election District - 5th Councilmanic District
Harbor Realty Partnership - Petitioner
Case No. 92-428-A

Dear Mr. Lichter:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in part and denied in part in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

Timothy M. Kotroco
TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: Ms. Angela Leitzer
12 Treadway Court, Baltimore, Md. 21236

Thomas and Mary Ellen Vecchioni
4206 Raab Avenue, Baltimore, Md. 21236

Ms. Sophie Raab
4202 Raab Avenue, Baltimore, Md. 21236

People's Counsel

File

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Petition for Variance
to the Zoning Commissioner of Baltimore County
for the property located at 4211 Blakely Avenue

which is presently zoned R-O

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

203.3.c.1 to permit 3 wallmounted, rear illuminated signs comprising a total of 115.3 sq.ft. in lieu of the permitted 1 non-illuminated 8 sq.ft. sign

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

due to the location and shape of the property and for additional reasons to be presented at the public hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Current Purchased/Lessor:

(Type or Print Name)

Signature

Address

City

State

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Phone No.

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CERTIFICATE OF PUBLICATION
COUNTY DEPARTMENT OF BALTIMORE COUNTY
TOWNSHIP, Maryland

Part of Book

CERTIFICATE OF PUBLICATION

NOTICE OF HEARING

The Board of Commissioners of Baltimore County, Maryland, has received a petition from the Baltimore County Planning Board, dated April 1, 1992, for a variance from the provisions of the County Code of Ordinances, Chapter 21, Article 10, Section 10-101, relating to the proposed construction of a new building on the property located at 10000 North Avenue, Baltimore, Maryland, and the Board of Commissioners has determined that the proposed construction is in the public interest and that the variance should be granted.

THE JEFFERSONIAN

Publisher:

NOTICE OF HEARING

The Board of Commissioners of Baltimore County, Maryland, has received a petition from the Baltimore County Planning Board, dated April 1, 1992, for a variance from the provisions of the County Code of Ordinances, Chapter 21, Article 10, Section 10-101, relating to the proposed construction of a new building on the property located at 10000 North Avenue, Baltimore, Maryland, and the Board of Commissioners has determined that the proposed construction is in the public interest and that the variance should be granted.

Enclosed for the Board of Commissioners are the following documents:

- 1. A copy of the petition for a variance.
- 2. A copy of the Board of Commissioners' decision.
- 3. A copy of the Board of Commissioners' minutes.

The Board of Commissioners has determined that the proposed construction is in the public interest and that the variance should be granted.

Charles E. Smith
Commissioner of Planning

Enclosed for the Board of Commissioners are the following documents:

- 1. A copy of the petition for a variance.
- 2. A copy of the Board of Commissioners' decision.
- 3. A copy of the Board of Commissioners' minutes.

The Board of Commissioners has determined that the proposed construction is in the public interest and that the variance should be granted.

Baltimore County Department of Planning
Office of Zoning Administration
and Land Use Management

June 21, 1992

Mr. Harold Reedy, Esquire
10000 North Avenue, #110
Baltimore, MD 21204

Re: Item No. 450, Item No. 22-428-10
Petitioner: Harold Reedy Partnership
Petition for Variance

Dear Mr. Reedy:

The Zoning Administration Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments and the reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all necessary data of plans or problems with regard to the proposed construction that may have a bearing on this case.

Comments are all comments suggested that far from the members of the ZAC, either of request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the issue of filing zoning petitions and are aimed at expediting the petition filing process with this office.

The Director of Zoning Administration and Development Management has instituted a system whereby responses to zoning petitions who have been filed are capable of filing petitions that meet the all aspects of the zoning regulations and petitioning requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.



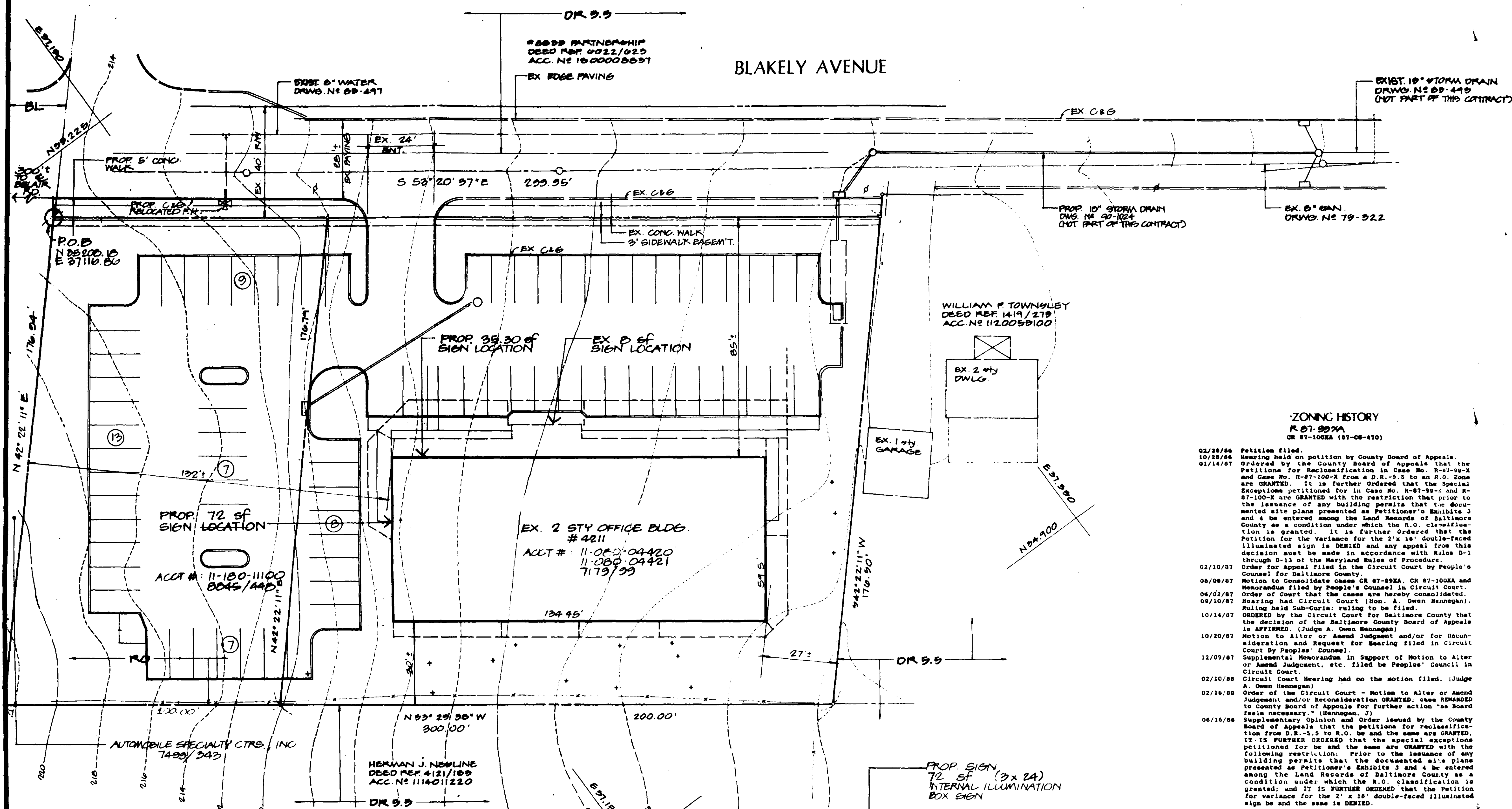
Seal of the County Department of Baltimore County, Maryland

Your petition has been received and accepted for filing this 10th day of April, 1992.

Arnold Jankin
ARNOLD JANKIN
DIRECTOR

Received by:
W. Carl Roberts, Jr.
Charles
Zoning Plans Advisory Committee

Enclosures: Harold Reedy Partnership, et al.
Petitioner's Attorney: John W. Smith



"ZONING HISTORY
R-67-0099A
CR 67-1000A (87-CG-470)

02/28/86 Petition filed.

03/28/86 Hearing held on petition by County Board of Appeals.

04/16/87 Ordered by the County Board of Appeals that the following conditions be met: The R-67-0099A and Case No. R-67-100-X as per a D.R.-5.5 to an R.N. are GRANTED. It is further ordered that the Special Exception petition submitted by the R-67-0099A and R-67-100-X are GRANTED with the restriction that prior to the issuance of any final plat, the County Board of Appeals must be presented with the following illuminated site plans presented as Petitioner's Exhibit 3 and 4 are entered into the Land Records of Baltimore County as a condition of the granting of the exception. It is further ordered that the following restriction for the alteration of the illuminated sign is DENIED and any appeal from this decision must be made in accordance with Rules 1-1 through 2-13 of the Circuit Court of Baltimore County. Order for Appeal filed in the Circuit Court by People's Counsel for Baltimore County.

05/08/87 On 05/08/87, CR 67-089XA, CR 67-100XA and Memorandum filed by People's Counsel in Circuit Court.

05/08/87 On 05/08/87, CR 67-089XA, CR 67-100XA and Memorandum filed by People's Counsel in Circuit Court.

05/10/87 Hearing held Circuit Court (Hon. A. Owen Hennegan). Ruling held Sub-Curia: failing to be filed.

05/14/87 ORDER by the Circuit Court of Baltimore County that the decision of the Baltimore County Board of Appeals is AFFIRMED. (Judge A. Owen Hennegan)

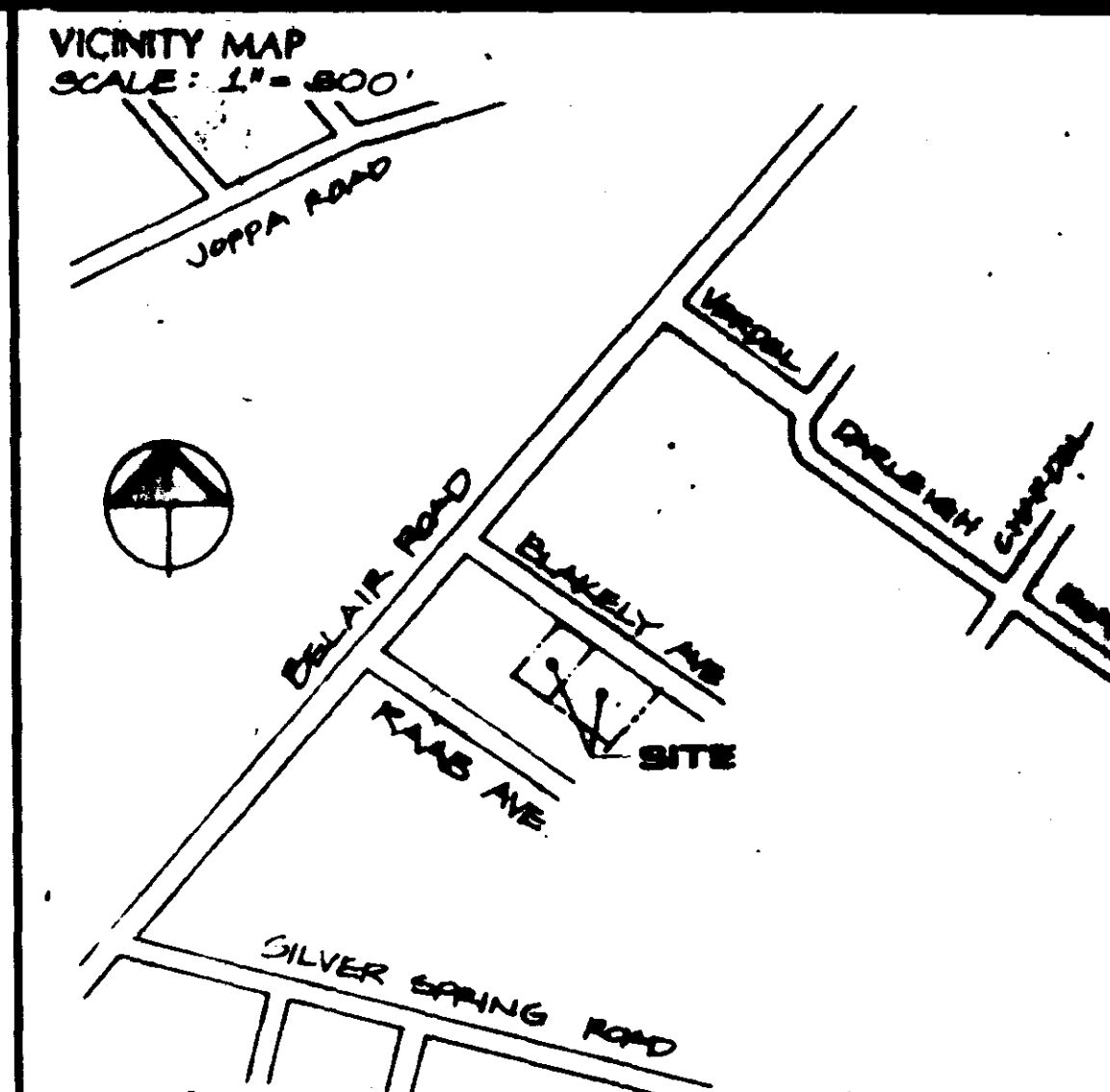
05/20/87 Motion to Alter the County Board and/or for Reconsideration and Request for Hearing filed in Circuit Court by People's Counsel.

05/29/87 Supplemental Memorandum in Support of Motion to Alter or Amend Judgement, etc. filed by Peoples' Council in Circuit Court.

06/10/87 Circuit Court Hearing held on the motion filed. Judge A. Owen Hennegan.

06/16/87 On 06/16/87, Circuit Court - Motion to Alter or Amend Judgement and/or Reconsideration GRANTED: case REMANDED: Judgment of County Board of Appeals for further action as Board of Appeals necessary.

06/16/87 Supplemental Opinion and Order issued by the County Board of Appeals. The Board of Appeals has granted the exception from D.R.-5.5 to R.O. be and the same are GRANTED. IT IS FURTHER ORDERED that the special exceptions for the illuminated sign be granted. The following restriction: Prior to the issuance of any final plat, the County Board of Appeals must be presented as Petitioner's Exhibit 3 and 4 are entered among the Land Records of Baltimore County as a condition of the granting of the exception. The illuminated sign be and the same are GRANTED; and IT IS FURTHER ORDERED that the Petition for variance for the 2' x 16' double-faced illuminated sign be and the same are GRANTED.



SITE DATA

SITE ACREAGE:

GROSS	1.97 AC.
NET	1.81 AC.

EXISTING ZONING.....MO

EXISTING USE.....GENERAL & MEDICAL OFFICES

REQUIRED PARKING:

MEDICAL: 4000 SF @ 4.5/1000 SF	18 SP
GENERAL: 12000 SF @ 3.3/1000 SF	36.8 SP
TOTAL REQUIRED	57.8 SP

PROPOSED PARKING.....77 SP

FLOOR AREA RATIO:

16,000 SF/59677.2	0.27
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GENERAL NOTES

1. There are no free standing signs on this site.
2. Building Permit No: B 074073
Control No: c-1875-90
Grading Permit: GRC-1942-90

92-428-A

CRC PLAN APPROVAL "HARBOR REALTY, INC."
DATED: 9/22/88

PLAT TO ACCOMPANY
PETITION FOR SIGN VARIANCE

HARBOR REALTY, INC.
4211 BLAKELY AVENUE

COUNTY COUNCIL DISTRICT NR: 5
ELECTION DISTRICT NR: 11
BALTIMORE COUNTY, MD.



REVISIONS:

SCALE: 1" = 20'

DATE: 4-27-98

JOB NO.: 64-C

DESIGNED: TJH

DRAWN: JAJ

CHECKED: TJH

DRAWING NUMBER

ZON 1

ZON-1

1. **Introduction**

SHEET 1 OF 1
